

103^D CONGRESS
2^D SESSION

S. 2298

To amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 19 (legislative day, JULY 11), 1994

Mr. LEAHY (for himself and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Farm Credit System
5 Agricultural Export and Risk Management Act”.

6 **SEC. 2. REFERENCES TO FARM CREDIT ACT OF 1971.**

7 Whenever in this Act an amendment or repeal is ex-
8 pressed in terms of an amendment to, or repeal of, a sec-
9 tion or other provision, the reference shall be considered

1 to be made to a section or other provision of the Farm
 2 Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to
 3 the extent otherwise specifically provided.

4 **SEC. 3. PARTICIPATION DEFINED.**

5 Section 3.1(11)(B) (12 U.S.C. 2122(11)(B)) is
 6 amended by adding at the end the following new clause:

7 “(iv) As used in this subparagraph, the term ‘partici-
 8 pate’ or ‘participation’ refers to multilender transactions,
 9 including syndications, assignments, loan participations,
 10 subparticipations, or other forms of the purchase, sale, or
 11 transfer of interests in loans, other extensions of credit,
 12 or other technical and financial assistance.”.

13 **SEC. 4. AGRICULTURAL EXPORT FINANCING.**

14 Section 3.7(b) (12 U.S.C. 2128(b)) is amended—

15 (1) in paragraph (1)—

16 (A) by striking “assistance to (A)” and in-
 17 serting “assistance to”;

18 (B) by striking “the export or” and insert-
 19 ing “the”; and

20 (C) by striking “and (B)” and all that fol-
 21 lows through “subparagraph (A): *Provided*,
 22 That a” and inserting “if the”; and

23 (2) by striking paragraph (2) and inserting the
 24 following new paragraph:

1 “(2)(A) A bank for cooperatives is authorized to
2 make or participate in loans and commitments to, and to
3 extend other technical and financial assistance to—

4 “(i) any domestic or foreign party for the ex-
5 port, including (where applicable) the cost of freight,
6 of agricultural commodities or products thereof,
7 farm supplies, or aquatic products from the United
8 States under policies and procedures established by
9 the bank for cooperatives to ensure that the com-
10 modities, products, or supplies are originally
11 sourced, where reasonably available, from 1 or more
12 eligible cooperative associations described in section
13 3.8(a) on a priority basis; and

14 “(ii) except as provided in subparagraph (B),
15 any domestic or foreign party in which an eligible
16 cooperative association described in section 3.8(a)
17 (including, for the purpose of facilitating its domes-
18 tic business operations only, a cooperative or other
19 entity described in section 3.8(b)(1)(A)) has an own-
20 ership interest, for the purpose of facilitating the do-
21 mestic or foreign business operations of the associa-
22 tion, except that if the ownership interest by an eli-
23 gible cooperative association, or associations, is less
24 than 50 percent, the financing shall be limited to the

1 percentage held in the party by the association or
2 associations.

3 “(B) A bank for cooperatives shall not use the au-
4 thority provided in subparagraph (A)(ii) to provide finan-
5 cial assistance to a party for the purpose of financing the
6 relocation of a plant or facility from the United States
7 to another country.”.

8 **SEC. 5. CONFORMING AMENDMENT.**

9 Section 3.8(b)(1) (12 U.S.C. 2129(b)(1)) is amend-
10 ed—

11 (1) by striking subparagraph (B);

12 (2) by redesignating subparagraphs (C), (D),
13 and (E) as subparagraphs (B), (C), and (D), respec-
14 tively; and

15 (3) by aligning the margin of subparagraph (D)
16 (as so redesignated) so as to align with the margin
17 of subparagraph (C) (as so redesignated).

18 **SEC. 6. LOAN PARTICIPATION AUTHORITY FOR FARM**
19 **CREDIT BANKS AND DIRECT LENDER ASSO-**
20 **CIATIONS.**

21 (a) IN GENERAL.—Title IV (12 U.S.C. 2151 et seq.)
22 is amended by inserting after section 4.18 (12 U.S.C.
23 2206) the following new section:

1 **“SEC. 4.18A. AUTHORITY OF FARM CREDIT BANKS AND DI-**
2 **RECT LENDER ASSOCIATIONS TO PARTICI-**
3 **PATE IN LOANS TO SIMILAR ENTITIES FOR**
4 **RISK MANAGEMENT PURPOSES.**

5 “(a) DEFINITIONS.—As used in this section:

6 “(1) PARTICIPATE AND PARTICIPATION.—The
7 terms ‘participate’ and ‘participation’ have the
8 meaning provided in section 3.1(11)(B)(iv).

9 “(2) SIMILAR ENTITY.—The term ‘similar en-
10 tity’ means a person that—

11 “(A) is not eligible for a loan from the
12 Farm Credit Bank or association; and

13 “(B) has operations that are functionally
14 similar to a person that is eligible for a loan
15 from the Farm Credit Bank or association in
16 that the person derives a majority of the income
17 of the person from, or has a majority of the as-
18 sets of the person invested in, the conduct of
19 activities that are functionally similar to the ac-
20 tivities that are conducted by an eligible person.

21 “(b) LOAN PARTICIPATION AUTHORITY.—Notwith-
22 standing any other provision of this Act, any Farm Credit
23 Bank or direct lender association chartered under this Act
24 is authorized to participate in any loan of a type otherwise
25 authorized under title I or II made to a similar entity by
26 any person in the business of extending credit, except that

1 a Farm Credit Bank or direct lender association may not
2 participate in a loan under this section if—

3 “(1) the participation would cause the total
4 amount of all participations by the Farm Credit
5 Bank or association under this section involving a
6 single credit risk to exceed 10 percent (or the appli-
7 cable higher lending limit authorized under regula-
8 tions issued by the Farm Credit Administration if
9 the stockholders of the respective Farm Credit Bank
10 or association so approve) of the total capital of the
11 Farm Credit Bank or association;

12 “(2) the participation by the Farm Credit Bank
13 or association would equal or exceed 50 percent of
14 the principal of the loan or, when taken together
15 with participations in the loan by other Farm Credit
16 System institutions, would cause the cumulative
17 amount of the participations by all Farm Credit Sys-
18 tem institutions in the loan to equal or exceed 50
19 percent of the principal of the loan;

20 “(3) the participation would cause the cumu-
21 lative amount of participations that the Farm Credit
22 Bank or association has outstanding under this sec-
23 tion to exceed 15 percent of the total assets of the
24 Farm Credit Bank or association; or

1 “(4) the loan is of the type authorized under
2 section 1.11(b) or 2.4(a)(2).

3 “(c) PRIOR APPROVAL REQUIRED.—

4 “(1) IN GENERAL.—With respect to a similar
5 entity that is eligible to borrow from a bank for co-
6 operatives under title III, the authority of a Farm
7 Credit Bank or association to participate in a loan
8 to the entity under this section shall be subject to
9 the prior approval of the bank for cooperatives hav-
10 ing, at the time the loan is made, the greatest loan
11 volume in the State in which the headquarters office
12 of the similar entity is located.

13 “(2) TERMS AND CONDITIONS.—Approval
14 under paragraph (1) may be granted on an annual
15 basis and under such terms and conditions as may
16 be agreed on between the Farm Credit Bank or as-
17 sociation, as the case may be, and the bank for co-
18 operatives granting the approval.

19 “(3) APPROVAL BY SUPERVISING FARM CREDIT
20 BANK.—An association may not participate in a loan
21 to a similar entity under this section without the ap-
22 proval of the supervising Farm Credit Bank of the
23 association.”.

1 (b) CONFORMING AMENDMENTS.—Section
2 3.1(11)(B)(i)(I)(bb) (12 U.S.C. 2122(11)(B)(i)(I)(bb)) is
3 amended—

4 (1) by striking “the other banks for coopera-
5 tives under this subparagraph” and inserting “other
6 Farm Credit System institutions”; and

7 (2) by striking “all banks for cooperatives” and
8 inserting “all Farm Credit System institutions”.

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